



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Angel Ríos, Jr.

**SUBJECT: OTHER SANTA CLARA COUNTY  
CITIES FOOD REIMBURSEMENT  
AGREEMENTS**

**DATE:** June 26, 2020

Approved

Date

6/29/2020

## **RECOMMENDATION**

Adopt a resolution authorizing the City Manager to negotiate and execute agreements with each of the other cities in Santa Clara County to reimburse the City for the loaded cost of food and necessities distributed to residents of those respective cities through an initial term of August 31, 2020, with an option to extend to December 31, 2020.

## **OUTCOME**

The recommended action enables the City of San José (City) to feed vulnerable populations in the incorporated cities (cities) of Santa Clara County (County), provide necessities to maintain good health for these vulnerable populations, and to invoice and receive reimbursement from those respective cities for the loaded cost of these food and necessity distribution services provided by the City.

## **BACKGROUND**

As a result of local, state, and federal mandates and advisories in response to COVID-19, the City Emergency Operations Center (EOC) received a request on March 18, 2020, from the County of Santa Clara (County) EOC to set up, administer, and staff a countywide food and necessities distribution program for children, adults, and senior citizens impacted by the National COVID-19 Emergency, the shelter-in-place order, and the subsequent economic downturn which is forcing more vulnerable populations into poverty<sup>1</sup>. The County requested the City lead

<sup>1</sup> According to Santa Clara County's Department of Employment and Benefit Services, applications for CalFresh (food stamp) assistance more than doubled between the periods March 1-15 and April 1-15. The San José-Sunnyvale-Santa Clara metropolitan statistical area is [projected](#) to see 15.3% unemployment during May 2020 as a result of the COVID-19 pandemic. For comparison, the 2010 annual rate of unemployment during the Great

countywide food and necessities distribution during the COVID-19 emergency response, the recovery period, and beyond the recovery period through an initial term of December 31, 2020, (incorporated and unincorporated) within the County.

The County public health office restrictions, triggered by the COVID-19 pandemic – to shelter-in-place, shut down non-essential businesses and close schools – has increased demand for food distributed through all jurisdictions in the County including Food Banks, Community-Based Organizations and school food programs. These entities have insufficient capacity and resources to meet the expanding food needs within their existing food distribution network, which includes serving residents of the unincorporated portions of the County. On May 12, City Council authorized the City Manager to finalize initial response contracts with a variety of meal (grocery and prepared meals) and necessities providers to help fill the gap in meal capacity to meet the hunger needs with a weekly output of over 3,000,000 meals per week<sup>2</sup> across the entire system of food distribution providers.

In a meeting with the Federal Emergency Management Agency (FEMA) staff on Sunday, May 3, 2020, the City confirmed that certain types of activities under the food service contracts would not be eligible for FEMA reimbursement. Two types of activities that are not deemed eligible by FEMA:

- First, the City would not be reimbursed by FEMA for meals provided to residents who live in unincorporated pockets and other cities in the County of Santa Clara because FEMA staff indicated that the County and other cities have the legal responsibility to seek reimbursement for services provided to their jurisdictions and that they cannot delegate this legal responsibility by any mechanism to the City of San José.
- Second, FEMA staff is not expanding the reimbursement eligibility categories issued following the national declaration of emergency notwithstanding the unique nature of the COVID-19 pandemic. Under these categories, eligibility for food assistance is limited to residents that have been diagnosed as being positive for COVID-19, residents that are at high-risk (such as those over 65 or those with another underlying health condition), or residents that are unable to leave home because of exposure to COVID-19. Consequently, the City will not be reimbursed by FEMA for providing meals to residents exclusively based on their status as low-income or economically impacted by the emergency.

Since March 20, 2020, the Administration has pursued a reimbursement agreement with the County to ensure the City is compensated for food and necessities services provided to residents

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Recession was 10.5%. The two employment categories with projected highest job losses are: (i) personal care and service, and (ii) food preparation and serving.

<sup>2</sup> Based on data from research by Santa Clara University on the number of meals provided to vulnerable households in Santa Clara County during the 2010 recession. Projections for food assistance during COVID-19 are adjusted to reflect a more severe economic downturn due to COVID-19.

in the unincorporated County pockets. On May 19, 2020, City Council authorized the City Manager to negotiate and execute a reimbursement agreement with the County. Based on the County reimbursement agreement as a model, the City is also pursuing similar reimbursement agreements with the remaining incorporated cities.

## **ANALYSIS**

Due to the lack of a mutual aid agreement specific to food and necessity distribution, a countywide food distribution apparatus had to be established quickly to coordinate and maximize existing services while building and securing additional meal and necessities capacity to meet the rapid rise in food insecurity resulting from the impacts of COVID-19 pandemic. The system was originally envisioned by the County and the City to feed those in need as the highest priority with the business model assuming that the City would be able to recoup its loaded costs from other jurisdictions, including the other incorporated cities in the County, either through federal aid funding sources or directly from other jurisdictions. As described above, FEMA stated on May 3, 2020, that it will not reimburse the City for meal and necessities distribution costs provided to residents outside of the City limits, regardless of the populations served. As such the City must pursue individual reimbursement agreements with the County and with cities within the County to recover costs while maintaining the countywide food and necessities distribution services.

To provide food and necessities distribution services to individuals and locations in cities within the County while minimizing impacts to the General Fund, the City has engaged these cities through the Emergency Operations Center liaisons in negotiating reimbursement agreements with the following business terms.

### **Business Terms for the Reimbursement Agreement**

- City to provide a food and necessities distribution service in response to the COVID-19 emergency response and attempt to satisfy all requests to serve individuals and locations in the cities within the County.
- City to invoice the cities, and cities to pay, based on the loaded cost per meal served to individuals and locations within the cities. The loaded cost will include the City's costs to administer the services, which include but are not limited to labor costs, third-party costs, consulting services, technology, and other costs.
- The agreement is proposed to be retroactive to March 18, 2020, with an initial term through August 31, 2020 and a possible extension through December 31, 2020.
- Either party may terminate this Agreement for convenience upon 14 calendar days written notice.
- Cities to pay a deposit and pay for future service to locations within their respective jurisdictions within the County.
- Cities to pay the City for services already rendered as of March 18, 2020.

- If all parties (the County, the City, and the other cities within the County) are unable to execute an agreement by July 17, 2020, staff will return to the Council on August 4, 2020, to review next steps to minimize the impact to the City General Fund and discuss plans to transition any appropriate food and necessities distribution back to the cities and the County and end services provided by the City of San José to the cities and the County by August 31, 2020.

### **Methodology for Billing**

Staff intends to compare the baseline of annual food service provided before the pandemic to the weekly growth of meals provided through the City's food and necessity distribution services. The weekly increase over the baseline, will serve as an estimate of the number of meals provided to residents of the unincorporated areas of the County (and other jurisdictions) through channels coordinated or paid for by the City. This initial estimate would include, but is not limited to, standard countywide programs such as Meals on Wheels, Senior Nutrition Programs, and the various Child Nutrition Programs to demonstrate the increase in meals provided to residents based on jurisdiction in addition to other channels/sources/providers engaged to provide food and necessities distribution services.

The City plans to invoice the cities for the loaded cost of food (meals) and necessities provided by the City as invoiced by service providers contracted by the City. The City will provide documentation to the other city jurisdictions on the populations served in their respective jurisdictions to assist in their pursuit of federal, State and other reimbursement or grant funds. The invoice would include the fully loaded cost of providing the food and necessities distribution service including administrative costs with an 18% markup to create the countywide food and necessities distribution system. The cities may need to provide additional data not available to the City to support state or federal reimbursement.

### **CONCLUSION**

By authorizing the City Manager to negotiate and execute reimbursement agreements with the other cities in the county, the City is able to provide meal and necessities distribution services to feed the vulnerable populations within the other incorporated cities while securing critical revenue to minimize the impact to the City's general fund. The proposed agreement is consistent with the City's approach to serve the public during the pandemic—by feeding the medically vulnerable, seniors, low-income children, families forced into poverty<sup>1</sup> due to the impacts of shelter-in-place and associated economic downturn, and the unhoused population—while partnering with other incorporated city jurisdictions to manage costs.

### **EVALUATION AND FOLLOW-UP**

Staff will apply the billing methodology and clarify assumptions when providing the initial cost estimate to the County during negotiations. Meanwhile, staff is working with federal and state agencies to expand funding and eligibility requirements for meal distribution. Staff will be able to update likely cost scenarios that follow City Council direction to maximize reimbursements and other funding sources to minimize General Fund impacts. Staff will return to City Council with updates on the overall food distribution program and the budget actuals and scenarios. If all parties (the County, the City, and the other cities within the County) are unable to execute agreements by July 17, 2020, staff will return to the Council on August 4, 2020 to review next steps to minimize the impact to the City General Fund.

### **CLIMATE SMART SAN JOSE**

The recommendations in this memorandum do not have any negative impact on Climate Smart San José energy, water, or mobility goals.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City's website for the June 30, 2020, Council agenda.

### **COORDINATION**

This memorandum, related documents and resolutions were prepared in coordination with the Budget Office, Finance Department, Parks Recreation Neighborhood Service Department, the Office of Civic Innovation, and the City Attorney's Office.

### **COMMISSION RECOMMENDATION/INPUT**

No commission recommendation or input is associated with this action.

### **COST SUMMARY/IMPLICATIONS**

Reimbursements from other jurisdictions for applicable costs are contingent upon agreement execution, actual demand and service levels, and will be recognized after they are received through either a separate City Council memorandum or future budget process. Any corresponding costs incurred by the City will be supported by the existing Food and Necessities appropriation within the Coronavirus Relief Fund, totaling \$15.0 million for 2019-2020 and \$20.0 million for 2020-2021, as approved by City Council on June 30, 2020.

HONORABLE MAYOR AND CITY COUNCIL

June 26, 2020

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**CEQA**

Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.

/s/

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Deputy City Manager, City Manager's Office

For questions, please contact Angel Ríos, Deputy City Manager, at (408) 793-5553.